

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN BILL THOMAS**, on January 10, 2003 at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Bill Thomas, Chairman (R)  
Rep. Arlene Becker, Vice Chairman (D)  
Rep. Mark Noennig, Vice Chairman (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Ray Hawk (R)  
Rep. Daniel S. Hurwitz (R)  
Rep. Larry Jent (D)  
Rep. Penny Morgan (R)  
Rep. Holly Raser (D)  
Rep. Don Roberts (R)  
Rep. Ron Stoker (R)  
Rep. Jonathan Windy Boy (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Branch  
CJ Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 191 (1/3/03); HJR 3 (12/20/02)  
Executive Action: None

**HEARING ON HB 191**

**Sponsor:** REP. RONALD R. DEVLIN, HD 3, Terry

**Opening Statement by Sponsor:**

REP. DEVLIN said this bill provided that the mental health ombudsman is a discretionary appointment for a term of up to four years.

***{Tape: 1; Side: A; Approx. Time Counter: 12 - 30}***

**Proponents' Testimony:**

Barbara Ranf, Chief of Staff, Office of the Governor, said this bill is necessary for them to implement the Governor's executive budget. Within the Governor's office there were general fund reductions. One of the reductions made was to remove the general fund allocation from the mental health ombudsman program. If additional funding is found, the Governor will then re-appoint because there will be money to support that program.

***{Tape: 1; Side: A; Approx. Time Counter: 30 - 60}***

**Opponents Testimony:**

Aart Dolman, Great Falls resident, said the office of ombudsman is very important because that person would plead cases.

***{Tape: 1; Side: A; Approx. Time Counter: 60 - 90}***

Marti Wangen, Montana Psychological Association, provided written testimony.

**EXHIBIT** (huh05a01)

***{Tape: 1; Side: A; Approx. Time Counter: 90 - 125}***

Chris Christiaens, Montana Chapter of the National Association of Social Worker's, said the ombudsman office does one thing that is critical to Montana. It insures the equal access to care and it assures the availability of services to those with mental illness.

***{Tape: 1; Side: A; Approx. Time Counter: 125 - 151}***

Al Davis, Montana Mental Health Association, said the 56th Legislature tried to put a major void in the mental health system related to consumer, policy makers, and service providers. The position will be lost if it is lost if it remains in the present status. There are two important factors and they are the current budget short-fall which will affect many mental health programs and the medications and other interventions places tremendous stress and hardships on consumers. Failure to appoint the

ombudsman will eliminate an extremely valuable resource for the collections of data.

**{Tape: 1; Side: A; Approx. Time Counter: 151 - 216}**

**Mignon Waterman, Helena resident**, said there were two things that were consistently surfaced in programs which were effective and that people thought were good systems. There was strong consumer involvement and an independent ombudsman.

**{Tape: 1; Side: A; Approx. Time Counter: 216 - 275}**

**June Hermanson, Montanans For Disabilities For Equal Access**, said the problems which arise for family members and individuals with mental illness are something that cannot be overcome. Without the position of an ombudsman, there is no one to help access the services.

**{Tape: 1; Side: A; Approx. Time Counter: 275 - 311}**

**Betty Beverly, Executive Director, Montana Senior Citizens Association**, said there are not enough consumer advocates.

**{Tape: 1; Side: A; Approx. Time Counter: 311 - 357}**

**Raymond Berg, Montana Nurses's Association**, said health care should not be left to chance.

**{Tape: 1; Side: A; Approx. Time Counter: 357 - 374}**

**Mary McCue, Montana Clinical Mental Health Counselors Association**, provided testimony from Gary Mihelish, President, Montana's Voice on Mental Illness.

**EXHIBIT (huh05a02)**

**{Tape: 1; Side: A; Approx. Time Counter: 374 - 413}**

**Jane McCall, Montana Children's Initiative Provider Association, and Deaconess Billings Clinic**, said they do not want to put the ombudsman position at risk. If it is discretionary it does become a risk.

**{Tape: 1; Side: A; Approx. Time Counter: 413 - 440}**

**Cathy McGoran, Montana Counsel of Community Mental Health Centers**, said there are four regional mental health centers and they are Eastern Montana Community Mental Health Center in Miles City, Golden Triangle Community Mental Health Center in the high line and this area, Mental Health Center in Billings and Western Montana Community Mental Health Center. If this program is eliminated, mentally ill people will feel devalued because this is taken away from them.

**{Tape: 1; Side: A; Approx. Time Counter: 440 - 510}**

**Bill Kennedy, Yellowstone County Commissioner and the Montana Association of Counties, Mental Health Center Board,** said they stand in opposition to this bill. So many people rely on this position to get the information to get the services needed. There have been many cuts in the mental health area and this is one position, statewide, that has been helping people get those services or getting people in the right direction to get those services. If this bill is passed, the ombudsman position will not be seen again.

*{Tape: 1; Side: A; Approx. Time Counter: 461 - Tape 1; Side: B; Approx. Time Counter: 41}*

**Anita Roessmann, Attorney at Law, Montana Advocacy Program,** said federal monies come with stipulations. The stipulation is that the State needs to be advocates for the people and facilities. She spoke highly of the ombudsman program. They save the State money with their work. The ombudsman office attracts federal dollars, saves the State money, it belongs to the State as an internal office.

*{Tape: 1; Side: B; Approx. Time Counter: 41 - 94}*

**Steve Yeakel, Montana Counsel for Maternal and Child Health,** said not to do this bill now. Montana has a collection of services which do not make a system. There have been 39 reductions in services over the last year.

*{Tape: 1; Side: B; Approx. Time Counter: 94 - 122}*

**Kimberly Gardner, Helena resident,** presented written testimony.  
**EXHIBIT** (huh05a03)

**John J. Madsen, Helena resident,** presented written testimony.  
**EXHIBIT** (huh05a04)

**Informational Testimony:**

**Bonnie Adee, Mental Health Ombudsman,** said she was available for questions from the Committee. She also stated when the ombudsman program was created, the funding allowed Medicaid reimbursement at 50% after eligibility determination. Medicaid requires general funding match.

*{Tape: 1; Side: B; Approx. Time Counter: 122 - 180}*

**Questions from Committee Members and Responses:**

**REP. HAWK** asked Ms. Adee the amount of funds they get from the general fund. **Ms. Adee** said there have been fewer Medicaid people in it. The cost allocation plan would be updated in the next biennium for the shifter proportion. The federal match is

about one-third of the total budget which has gone up somewhat through the cost pay plan. The approximate figure is \$105,000.

**{Tape: 1; Side: B; Approx. Time Counter: 180 - 238}**

**REP. NOENNIG** asked Ms. Ranf if most of the clients are involved in Medicaid. **Ms. Ranf** said last session, one of the changes to the language mandate of the ombudsman office is to represent those in need of public mental health. Medicaid is the largest payer of mental health services.

**{Tape: 1; Side: B; Approx. Time Counter: 238 - 288}**

**REP. RASER** asked Ms. Ranf if she would oppose an amendment if the funding could be achieved. The funding would be a permanent position as long as the funding is made available without taking it from the general fund. **Ms. Ranf** said this is a financial issue; therefore, they are asking for the change. An amendment would specify the exact funding would be approved. Representation must be provided for the people.

**{Tape: 1; Side: B; Approx. Time Counter: 288 - 335}**

**REP. FACEY** asked Ms. Ranf if the Governor's office would agree this idea would save money in the long run. **Ms. Ranf** said the mental health program has done a good job and they see the value of the program.

**{Tape: 2; Side: A; Approx. Time Counter: 1 - 42}**

**REP. RASER** asked Ms. Ranf if the Board of Visitors is a federally funded program or if it is that something that is discretionary for the State. **Ms. Ranf** said she did not think it was a federal program.

**{Tape: 2; Side: A; Approx. Time Counter: 42 - 115}**

**REP. STOKER** asked Ms. Adee if this was a legal mandatory representation and if so, had they been providing that type of service as well. **Ms. Adee** said they do not provide any legal representation. **REP. STOKER** asked Ms. Adee if her duties are primarily guiding people through that entire maze with some expediency. **Ms. Adee** said that was one of the things. There are some situations which require a lot more followup investigation analysis and a written report for with her ideas.

**{Tape: 2; Side: A; Approx. Time Counter: 115 - 141}**

**REP. HURWITZ** told Ms. Adee that we should be sure to have a telephone number for mental problems. **Ms. Adee** said the number was 1-888-444-9669.

**{Tape: 2; Side: A; Approx. Time Counter: 156 - 161}**

**Don Harr, M.D.**, said he was speaking in regard to the ombudsman position in this state. He also represents the Montana Psychiatric Association because he is their legislative representative. He also speaks for the psychiatrists in the state, especially those that have anything to do with the public system in recognizing the individuals who receive services from the system certainly need and deserve the advocacy which is provided through the office of the ombudsman. Individuals who were in need of guidance on how to get through the needs of various problems that allowed them to get the kind of service and help they needed. If they did not receive this help it could have added to the stress and problems they already had. He stated he was also associated with the Montana Mental Health System for the last 45 years and seeing the problems that were already there in the office of the ombudsman. There is a distinct difference that is a benefit to the patients.

**{Tape: 2; Side: A; Approx. Time Counter: 161 - 222}**

**Closing by Sponsor:**

The Sponsor closed.

**{Tape: 2; Side: A; Approx. Time Counter: 222 - 244}**

**HEARING ON HJR 3**

**Sponsor:** REP. BOB LAWSON, SD 80, Whitefish

**Opening Statement by Sponsor:**

**REP. LAWSON** said this Resolution requests an interim committee study to examine child abuse and neglect proceedings in order to determine how to provide representation for indigent families and to determine the appropriate earliest opportunity.

**{Tape: 2; Side: A; Approx. Time Counter: 244 - 272}**

**Proponents' Testimony:**

**Susan Fox**, said Legislative Counsel is requested to designate the appropriate interim committee or direct sufficient staff resources. There is a fifteen-month period in order to study an issue more in depth. This is then presented to the legislature. Then, the whole body of the legislature is able to pass the resolution.

**{Tape: 2; Side: A; Approx. Time Counter: 272 - 318}**

**REP. LAWSON** then continued with his presentation of the bill and explained all of the changes in the bill.

**{Tape: 2; Side: A; Approx. Time Counter: 318 - 431}**

**Patrick McKee, Missoula resident,** said he was a disabled veteran, he lives on \$505 a month, his rent is subsidized by HUD Housing. He told of the abuse of his son. He had a verbal agreement with his son's mother for mutual custody. The child was returned to the home of the abuser and Mr. McKee has been trying to investigate through local State agencies since that time. He also provided written testimony.

**EXHIBIT (huh05a05)**

**{Tape: 2; Side: A; Approx. Time Counter: 431 - Tape: 2; Side: B; Approx. Time Counter: 28}**

**Candy Matthew Jenkins, Missoula resident,** said she had been working with thirty different families since March on a weekly basis. This bill provides a playing field that is more fair for parents. She indicated that 2,500 families had left the state after investigations had begun into reports of neglect or abuse. In Montana, we need to see a little bit more equity of law. There are so many people in this state that are afraid to tackle the Department of Child Protective Services. They are fearful of their reputation, businesses and law enforcement. She also stated that a citizen living in the State of Montana needs to be fearful of any branch of their government of public services. There are public servants who do not earn their own money but live off of the money that is earned by taxpayers and lording it over those who pay their salary.

**{Tape: 2; Side: B; Approx. Time Counter: 29 - 112}**

**Bonnie Adee, Mental Health Ombudsman,** said she supports this interim study. She especially supports furthering the goals of balancing the interests between the best interests of the child, the rights of the family, the possibility of reuniting the family and providing early prevention and intervention.

**{Tape: 2; Side: B; Approx. Time Counter: 112 - 134}**

**Donald Harr, M.D.,** said he was a physician and psychiatrist in Billings and stated he was very concerned about child abuse. The study being requested does not abrogate the concerns about child abuse. All this would do is bring forth information to determine that in instances where abuse has been alleged, that the full facts of the situation would be brought out. If children could live with their own parents, if the parents can produce a proper family situation, and proper living environment for the children, the child is much better off.

**{Tape: 2; Side: B; Approx. Time Counter: 134 - 170}**

**Shirley Brown, Division Administrator, Child & Family Services, Department of Public Health & Human Services,** said there are six different types of petitions that can be filed. They are three circumstances under which the court is required to appoint

counsel for indigent parents. They are termination of parental rights, if the parent is indigent and the Department files a petition for a determination that reunification services are not needed the court is also required to appoint counsel, under the Indian Child Welfare Act, if the child who is subject of the proceeding makes the definition of Indian child under the Act, then at the start of the proceeding the court is required to appoint counsel.

***{Tape: 2; Side: B; Approx. Time Counter: 170 - 243}***

**Anita Roessmann, Attorney at Law, Montana Advocacy Program**, she supports this bill.

***{Tape: 2; Side: B; Approx. Time Counter: 243 - 299}***

**EXHIBIT** (huh05a06)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. WINDY BOY** asked Ms. Brown, who is an advocate in the courts for children, if this would be under the definition of a guardian. **Ms. Brown** said this legislation refers to representation or perhaps even advocacy.

***{Tape: 2; Side: B; Approx. Time Counter: 299 - 323}***

**REP. NOENNIG** asked **REP. LAWSON** to explain parent inconsistency.

**REP. LAWSON** said he sees families, parents, and children all being the family. He also said in the scope of a study of this nature would be children, family, health, and human services.

**REP. NOENNIG** then said the purpose of the study was to determine the scope of representation of parents in potential termination rights proceedings. The issue is whether or not parents need to get the right to counsel and the time in which they need this counseling. **REP. LAWSON** said his goal is to determine the need for representation, advice, and advocacy.

***{Tape: 2; Side: B; Approx. Time Counter: 323 - 405}***

**Closing by Sponsor:**

The Sponsor closed.

***{Tape: 2; Side: B; Approx. Time Counter: 405 - 455}***

**ADJOURNMENT**

Adjournment: 5:00 P.M.

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REP. BILL THOMAS, Chairman

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CJ JOHNSON, Secretary

BT/CJ

**EXHIBIT** (huh05aad)